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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: William Herz
Title: Method and Apparatus for Updating Universal Remote Databases
Through TV VBI Processing
Application No.: 09/484,088 Filing Date: January 18, 2000
Examiner: Zimmerman, Brian A. Group Art Unit: 2635
Docket No.: ZILG.255US0 Conf. No.: 9247

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Mary E. Bugger
Signature

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

This is in response to the Office Action mailed July 16, 2003.

Most of the claims have been rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent no. 6,407,779 (hereafter the "'779 patent") that names William Herz as the sole inventor. Since the present application also names the same William Herz as the sole inventor, the '779 patent cannot be prior art against the present application. The reference is not "of another" as required by 35 U.S.C. § 102(e). The first paragraph of section 706.02(f) of the Manual of Patent Examining Procedure (8th Edition, revised February 2003) states as follows: "In order to apply a reference under 35 U.S.C. § 102(e), the inventive entity of the application must be different than that of the reference." This requirement for the rejection is not present here. Therefore, it is respectfully requested that the anticipation rejection based on the '779 patent be withdrawn.

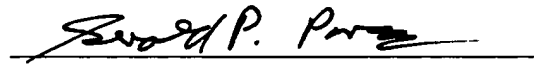
Attorney Docket No.: ZILG.255US0

Application No.: 09/484,088

The obviousness rejection of dependent claims 6 and 14 should similarly be withdrawn. This rejection is based upon the '779 patent as a primary reference, which, as pointed out above, cannot be prior art because it has the same inventive entity as the present application. With the '779 patent removed, the remaining cited U.S. patent no. 6,097,441 does not alone support the rejection.

Therefore, it is respectfully submitted that the present application is allowable and an early indication of its allowance is solicited.

Respectfully submitted,


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October 15, 2003
Date

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